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5 Attorney for T.J.L.

6

7   UNITED STATES DISTRICT COURT

8   NORTHERN DISTRICT OF CALIFORNIA

9

10
   THE PRUDENTIAL LIFE INSURANCE   Case No.: 13-cv-0817- JST
11 COMPANY OF AMERICA
                                       PETITION AND ORDER FOR
12   Plaintiff,   **APPOINTMENT OF GUARDIAN AD**
                                       LITEM
13 vs.

14 DELLA Y. BROOKS, T.J.L, a minor,
   and TINA LANCASTER
15

16   Defendants.

17
          Petitioner alleges as follows:
18
          1.   On June 3, 2013, this Court appointed Ciarán O'Sullivan, Esq., at the
19
   request of the Federal Pro Bono Project, to represent the minor child T.J.L., a
20
   Defendant in this matter.
21
          2.   At a case management conference held in this matter on August 28, 2013,
22
   at 2:00 p.m., Mr. O'Sullivan and the Court discussed the question of T.J.L.'s legal
23
   capacity to retain him as her counsel, and whether a guardian ad litem should be
24
   appointed to represent T.J.L's interests and to retain Mr. O'Sullivan. The Court
25
   indicated its willingness to entertain a petition for such an appointment subject to Mr.
26
   O'Sullivan locating a person willing to serve in that capacity.
27
          3.   Typically, but not always, a minor's parent serves as the minor's guardian
28

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          PETITION AND ORDER FOR APPOINTMENT OF GUARDIAN AD
                                     LITEM

1   ad litem. (*See Gonzalez v. Reno* [11th Cir. 2000] 212 F.3d 1338, 1351-1353.) Here,

2   the minor's only surviving parent is a Defendant with a potentially competing claim, and

3   who therefore cannot serve as her guardian ad litem.

4   4.   Mr. Michael Low, Esq., of Orinda, California, is now generally familiar with

5   issues raised by this case and is willing and able to serve as guardian ad litem in this

6   case for T.J.L., on a *pro bono* basis, should this Court appoint him. Mr. Low's consent

7   to serve is attached hereto.

8   5.   The minor, T.J.L. agrees to this appointment.

9   6.   Pursuant to Federal Rule of Court 17(c) this Court may appoint a guardian

10   ad litem for T.J.L. *sua sponte*. (*See*, F.R.C.P. 17(c); *see, also* Schwarzer et al.

11   *California Practice Guide, Federal Civil Procedure Before Trial* [TRG 2013], ¶ 7:39 at 7-

12   19.) Petitioner requests that the Court do so.

13   7.   Petitioner alleges that no hearing on this matter is necessary, since all

14   other counsel in this case have signed waivers of notice and a hearing on this petition,

15   which are attached.   Petitioner alleges that, because it took more time than anticipated

16   to locate a guardian ad litem willing to serve, a prompt appointment is necessary to

17   allow the guardian to prepare for the Settlement Conference to be held on October 16,

18   2013 before Magistrate Judge Maria-Elena James.

19   WHEREFORE, Petitioner moves the Court for an Order appointing Michael Low,

20   Esq. as guardian ad litem of Defendant T.J.L. for the purpose of the instant litigation and,

21   if necessary, a further Order amending this Court's ordered dated June 3, 2013

22   ///

23   ///

24   ///

25

26

27

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- 2 -

PETITION AND ORDER FOR APPOINTMENT OF GUARDIAN AD LITEM

1 appointing Ciarán O'Sullivan as attorney for T.J.L. and instead appointing Ciarán

2 O'Sullivan as attorney for the guardian ad litem.

3

4 DATED: September 19, 2013   THE LAW OFFICE OF CIARÁN
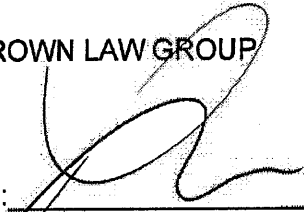   O'SULLIVAN
5

6   By: _____

7   Ciarán O'Sullivan, Attorney For
                                               Petitioner T.J.L.
8

9   **WAIVERS OF NOTICE AND HEARING**

10

11   The undersigned parties and attorneys of record for parties in this action by our

12 signatures hereto waive notice and a hearing on this Petition for an Order Appointing a

13 Guardian Ad Litem.

14

    DATED: September 18, 2013   BROWN LAW GROUP
15

16

17   By: _____

18   Tara M. Jacobson, Esq. (265622)
                                               Attorneys for The Prudential
19   Insurance Company of America

20

21 DATED: September   , 2013   THE LAW OFFICES OF JOHN L.
                                               FITZGERALD
22

23

24   By: _____

25   John L. Fitzgerald, Esq. (126613)
                                               Attorney For Defendant Della Y.
26   Brooks.

27

28
                                      - 3 -
        PETITION AND ORDER FOR APPOINTMENT OF GUARDIAN AD
                                 LITEM

appointing Ciarán O'Sullivan as attorney for T.J.L. and instead appointing Ciarán O'Sullivan as attorney for the guardian ad litem.

DATED: September   , 2013   THE LAW OFFICE OF CIARÁN O'SULLIVAN

By: _____
Ciarán O'Sullivan, Attorney For Petitioner T.J.L.

WAIVERS OF NOTICE AND HEARING

The undersigned parties and attorneys of record for parties in this action by our signatures hereto waive notice and a hearing on this Petition for an Order Appointing a Guardian Ad Litem.

DATED: September   , 2013   BROWN LAW GROUP

By: _____
Tara M. Jacobson, Esq. (265622)
Attorneys for The Prudential Insurance Company of America

DATED: September 19, 2013   THE LAW OFFICES OF JOHN L. FITZGERALD

By: _____
John L. Fitzgerald, Esq. (126613)
Attorney For Defendant Della Y. Brooks.

- 3 -

PETITION AND ORDER FOR APPOINTMENT OF GUARDIAN AD LITEM

DATED: September 19, 2013

By: _____
Tina Lancaster, Defendant in pro per

CONSENT OF NOMINEE

I, Michael Low, the nominee of the Petitioner, consent to act as guardian ad litem for the minor T.J.L. in the above-referenced action.

Dated: September _ _, 2013

_____
Michael Low, Esq.

ORDER

The petition for an Order appointing Michael Low, Esq. as guardian ad litem for petitioner is GRANTED.

IT IS SO ORDERED

Dated: _____

_____
UNITED STATES DISTRICT JUDGE

- 4 -
PETITION AND ORDER FOR APPOINTMENT OF GUARDIAN AD LITEM

1   DATED: September   , 2013

2

3   By:_____
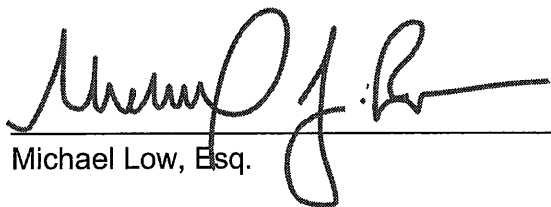   Tina Lancaster, Defendant in pro per
4

5

6   **CONSENT OF NOMINEE**

7
        I, Michael Low, the nominee of the Petitioner, consent to act as guardian ad litem
8
    for the minor T.J.L. in the above-referenced action.
9

10 Dated: September 19, 2013

11

12

13   Michael Low, Esq.

14
                                    ORDER
15

16   The petition for an Order appointing Michael Low, Esq. as guardian ad litem for

17 petitioner is GRANTED.

18   IT IS SO ORDERED

19

20 Dated: September 23, 2013

21

22

23   Judge Jon S. Tigar

24

25

26

27

28
                                    - 4 -
    PETITION AND ORDER FOR APPOINTMENT OF GUARDIAN AD
    LITEM